COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Permit No. VA0055409

Effective Date: XXXX, 2015
Expiration Date: XXXX, 2019

AUTHORIZATION TO DISCHARGE UNDER THE

VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM

AND

THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, the following owner is authorized to discharge in accordance with the information submitted with the permit application, and with this permit cover page, Part I and Part II, as set forth herein.

Owner:	IMTT-Virginia
Facility Name:	IMTT-Virginia Richmond Terminal
County:	Henrico
Facility Location:	5500 Old Osborne Turnpike

The owner is authorized to discharge to the following receiving streams:

Outfall:	001, 002 and 003
Stream:	James River, UT; Almond Creek, UT
River Basin:	James River
River Subbasin:	Lower James River
Section:	1a
Class:	III
Special Standards:	None

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Deputy Regional Director, Piedmont Regional Office

_____

Date

A.1 Limitations and Monitoring Requirements

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from Outfall 001. These discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS		DISCHARGE LIMITATIONS[a]			MONITORING REQUIREMENTS[b]	
		MONTHLY AVERAGE	MINIMUM	MAXIMUM	FREQUENCY[c]	SAMPLE TYPE
Flow	MGD	NL	NA	NL	1 per 6 Months	Estimate
pH	SU	NA	6.0	9.0	1 per 6 Months	Grab
Total Petroleum Hydrocarbons (TPH) [d]	mg/L	NL	NA	NL	1 per 6 Months	Grab
Total Organic Carbon (TOC)	mg/L	NL	NA	NL	1 per 6 Months	Grab
Total Recoverable Cadmium[e]	µg/L	NL	NA	NL	1 per 6 Months	Grab
Total Recoverable Copper [e]	µg/L	NL	NA	NL	1 per 3 Months	Grab
Total Recoverable Lead [e]	µg/L	NL	NA	NL	1 per 3 Months	Grab
Total Recoverable Zinc [e]	µg/L	NL	NA	NL	1 per 3 Months	Grab
Whole Effluent Toxicity (WET) 48-Hour Static Acute Test using *Ceriodaphnia dubia*	TUa	NL	NA	1.0	1 per Year	Grab
Hardness (as $CaCO_3$)	mg/L	NL	NA	NL	1 per Year	Grab
Total Suspended Solids (TSS)	mg/L	NL	NA	NL	1 per 6 Months	Grab
Total Phosphorus (TP)	mg/L	NL	NA	NL	1 per 6 Months[f]	Grab
Total Kjeldahl Nitrogen (TKN)	mg/L	NL	NA	NL	1 per 6 Months[f]	Grab
Nitrite+Nitrate	mg/L	NL	NA	NL	1 per 6 Months[f]	Grab
Total Nitrogen (TN)	mg/L	NL	NA	NL	1 per 6 Months[f]	Calculated[g]

"NL" means no limitation is established. Monitoring and reporting, however, are required.
"NA" means not applicable.

(a) These limitations are expressed in two significant figures.
(b) If no discharge occurs during the monitoring period, then the Discharge Monitoring Form shall be submitted indicating "No Discharge."

(c) 1 per 6 Months monitoring period shall be defined as January 1st through June 30 and July 1st through December 31st - DMR due no later than July 10th for the first semiannual period or January 10th of the following year for the second semiannual period. 1 per 3 Months monitoring periods shall be defined as January 1st through March 31st, April 1st through June 30th, July 1st through September 30th and October 1st through December 31st- DMR due no later than April 10th for the first quarter, July 10th for the second quarter, October 10th for the third quarter and January 10th of the following year for the fourth quarter.

(d) TPH is the sum of individual gasoline range organics and diesel range organics, or TPH-GRO and TPH-DRO, to be measured by EPA SW 846 Method 8015C (2007) for gasoline and diesel range organics, or by EPA SW 846 Methods 8260B and 8270D. If the combination of Methods 8260B and 8270D is used, the lab must report the total of gasoline range organics, diesel range organics and polynuclear aromatic hydrocarbons.

(e) See Part I.B.3 for quantification levels and reporting instructions.

(f) 1 per 6 Months nutrient monitoring is only required for the first two years of the permit, resulting in a total of 4 samples.

(g) Total Nitrogen, which is the sum of the TKN and Nitrite + Nitrate, shall be derived from the results of those tests.

2. The effluent shall be free of oil sheen. There shall be no discharge of floating solids or visible foam in other than trace amounts.
3. There shall be no discharge of tank bottom waters.
4. See Part I.B.5 for WET Requirements.

A.2 Limitations and Monitoring Requirements

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from Outfall 002. These discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS		DISCHARGE LIMITATIONS[a]			MONITORING REQUIREMENTS[b]	
		MONTHLY AVERAGE	MINIMUM	MAXIMUM	FREQUENCY[c]	SAMPLE TYPE
Flow	MGD	NL	NA	NL	1 per 6 Months	Estimate
pH	SU	NL	6.0	9.0	1 per 6 Months	Grab
Total Petroleum Hydrocarbons (TPH) [d]	mg/L	NL	NA	NL	1 per 6 Months	Grab
Total Organic Carbon (TOC)	mg/L	NL	NA	NL	1 per 6 Months	Grab
Total Recoverable Copper [e]	µg/L	NL	NA	NL	1 per 6 Months	Grab
Total Recoverable Zinc [e]	µg/L	NL	NA	NL	1 per 6 Months	Grab
Hardness (as $CaCO_3$)	mg/L	NL	NA	NL	1 per Year	Grab
Total Suspended Solids (TSS)	mg/L	NL	NA	NL	1 per 6 Months	Grab
Total Phosphorus (TP)	mg/L	NL	NA	NL	1 per 6 Months[f]	Grab
Total Kjeldahl Nitrogen (TKN)	mg/L	NL	NA	NL	1 per 6 Months[f]	Grab
Nitrite+Nitrate	mg/L	NL	NA	NL	1 per 6 Months[f]	Grab
Total Nitrogen (TN)	mg/L	NL	NA	NL	1 per 6 Months[f]	Calculated[g]

"NL" means no limitation is established. Monitoring and reporting, however, are required.
"NA" means not applicable.

(a) These limitations are expressed in two significant figures.
(b) If no discharge occurs during the monitoring period, then the Discharge Monitoring Form shall be submitted indicating "No Discharge."
(c) 1 per 6 Months monitoring period shall be defined as January 1st through June 30 and July 1st through December 31st - DMR due no later than July 10th for the first semiannual period or January 10th of the following year for the second semiannual period.
(d) TPH is the sum of individual gasoline range organics and diesel range organics, or TPH-GRO and TPH-DRO, to be measured by EPA SW 846 Method 8015C (2007) for gasoline and diesel range organics, or by EPA SW 846 Methods 8260B and 8270D. If the combination of Methods 8260B and 8270D is used, the lab must report the total of gasoline range organics, diesel range organics and polynuclear aromatic hydrocarbons.
(e) See Part I.B.3 for quantification levels and reporting instructions.

(f) 1 per 6 Months nutrient monitoring is only required for the first two years of the permit, resulting in a total of 4 samples.
(g) Total Nitrogen, which is the sum of the TKN and Nitrite + Nitrate, shall be derived from the results of those tests.

2. The effluent shall be free of oil sheen. There shall be no discharge of floating solids or visible foam in other than trace amounts.
3. There shall be no discharge of tank bottom waters.

A.3 Limitations and Monitoring Requirements

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from Outfall 003. These discharges shall be limited and monitored as specified below:

EFFLUENT CHARACTERISTICS		DISCHARGE LIMITATIONS[a]			MONITORING REQUIREMENTS[b]	
		MONTHLY AVERAGE	MINIMUM	MAXIMUM	FREQUENCY[c]	SAMPLE TYPE
Flow	MGD	NL	NA	NL	1 per 6 Months	Estimate
pH	SU	NL	6.0	9.0	1 per 6 Months	Grab
Total Petroleum Hydrocarbons (TPH) [d]	mg/L	NL	NA	NL	1 per 6 Months	Grab
Total Organic Carbon (TOC)	mg/L	NL	NA	NL	1 per 6 Months	Grab
Total Recoverable Copper [e]	µg/L	NL	NA	NL	1 per 6 Months	Grab
Hardness (as $CaCO_3$)	mg/L	NL	NA	NL	1 per Year	Grab
Total Suspended Solids (TSS)	mg/L	NL	NA	NL	1 per 6 Months	Grab
Total Phosphorus (TP)	mg/L	NL	NA	NL	1 per 6 Months[f]	Grab
Total Kjeldahl Nitrogen (TKN)	mg/L	NL	NA	NL	1 per 6 Months[f]	Grab
Nitrite+Nitrate	mg/L	NL	NA	NL	1 per 6 Months[f]	Grab
Total Nitrogen (TN)	mg/L	NL	NA	NL	1 per 6 Months[f]	Calculated[g]

"NL" means no limitation is established. Monitoring and reporting, however, are required.
"NA" means not applicable.

(a) These limitations are expressed in two significant figures.
(b) If no discharge occurs during the monitoring period, then the Discharge Monitoring Form shall be submitted indicating "No Discharge."
(c) 1 per 6 Months monitoring period shall be defined as January 1st through June 30 and July 1st through December 31st - DMR due no later than July 10th for the first semiannual period or January 10th of the following year for the second semiannual period.
(d) TPH is the sum of individual gasoline range organics and diesel range organics, or TPH-GRO and TPH-DRO, to be measured by EPA SW 846 Method 8015C (2007) for gasoline and diesel range organics, or by EPA SW 846 Methods 8260B and 8270D. If the combination of Methods 8260B and 8270D is used, the lab must report the total of gasoline range organics, diesel range organics and polynuclear aromatic hydrocarbons.
(e) See Part I.B.3 for quantification levels and reporting instructions.
(f) 1 per 6 Months nutrient monitoring is only required for the first two years of the permit, resulting in a total of 4 samples.
(g) Total Nitrogen, which is the sum of the TKN and Nitrite + Nitrate, shall be derived from the results of those tests.

2. The effluent shall be free of oil sheen. There shall be no discharge of floating solids or visible foam in other than trace amounts.
3. There shall be no discharge of tank bottom waters.

B. OTHER REQUIREMENTS OR SPECIAL CONDITIONS

1. Operation and Maintenance Manual Requirement

The permittee shall maintain a current Operations and Maintenance (O&M) Manual for the treatment works that is in accordance with Virginia Pollutant Discharge Elimination System Regulations, 9VAC25-31.

The O&M Manual and subsequent revisions shall include the manual effective date and meet Part II.K.2 and Part II.K.4 Signatory Requirements of the permit. Any changes in the practices and procedures followed by the permittee shall be documented in the O&M Manual no later than 90 days following the effective date of the changes. The permittee shall operate the treatment works in accordance with the O&M Manual and shall make the O&M manual available to Department personnel for review during facility inspections. No later than 30 days following a request by DEQ, the current O&M Manual shall be submitted to the DEQ Regional Office for review and approval.

The O&M manual shall detail the practices and procedures which will be followed to ensure compliance with the requirements of this permit. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

a. Permitted outfall locations and techniques to be employed in the collection, preservation, and analysis of effluent, storm water and sludge samples;

b. Procedures for measuring and recording the duration and volume of treated wastewater discharged;

c. Discussion of Best Management Practices, if applicable;

d. Procedures for handling, storing, and disposing of all wastes, fluids, and pollutants characterized in Part I.B.2 that will prevent these materials from reaching state waters. List type and quantity of wastes, fluids, and pollutants (e.g. chemicals) stored at this facility;

e. Discussion of treatment works design, treatment works operation, routine preventative maintenance of units within the treatment works, critical spare parts inventory and record keeping;

f. Plan for the management and/or disposal of waste solids and residues;

g. Hours of operation and staffing requirements for the plant to ensure effective operation of the treatment works and maintain permit compliance;

h. List of facility, local and state emergency contacts; and,

i. Procedures for reporting and responding to any spills/overflows/treatment works upsets.

2. Materials Handling and Storage

Any and all product, materials, industrial wastes, and/or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, and/or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, and/or stored in such a manner and consistent with Best Management Practices so as not to permit a discharge of such product, materials, industrial wastes, and/or other wastes to State waters, except as expressly authorized.

3. Oil Storage Groundwater Monitoring Reopener

As this facility currently manages groundwater in accordance with 9 VAC 25-91-10 et seq., the *Facility and Aboveground Storage Tank Regulation*, this permit does not presently impose groundwater monitoring requirements. However, this permit may be modified or alternately revoked and reissued to include ground water monitoring not required by the AST regulation.

4. Whole Effluent Toxicity (WET) Monitoring:

a. The Whole Effluent Toxicity limitation of NOAEC = 100% (TUa=1.0) in Part I.A.1 is a limit that shall be implemented as specified below:

(1) The permittee shall conduct annual acute toxicity testing using grab samples of final effluent from outfall 001. The acute tests to use are:

48-Hour Static Acute Test using *Ceriodaphnia dubia*

(2) These acute tests are to be conducted using a minimum of 4 replicates with 5 organisms each, for the control and effluent. The NOAEC (No Observed Adverse Effect Concentration) shall be reported either as 100% or <100% (less than 100%). The effluent will be in compliance if the survival of the test organisms in both the control and the 100% effluent exposures equals or exceeds 90%. If the survival in the effluent is less and this value is significantly different from the control survival, as determined by the hypotheses testing, the NOAEC is less than 100% and the effluent is not in compliance. Tests in which control survival is less than 90% are not acceptable.

(3) A copy of the toxicity test results shall be submitted with the DMR. Test procedures and reporting shall be in accordance with the WET testing methods cited in 40 CFR 136.6.

b. This permit may be modified or revoked and reissued to include pollutant specific limits in lieu of a WET limit should it be demonstrated that toxicity is due to specific parameters. The pollutant specific limits must control the toxicity.

c. Testing and Reporting Schedule: The permittee shall submit a copy of each toxicity test report in accordance with the following schedule:

Compliance Date	Submittal Date
01/01/2015 - 12/31/2015	By 01/10/2016
01/01/2016 - 12/31/2016	By 01/10/2017
01/01/2017 - 12/31/2017	By 01/10/2018
01/01/2018 - 12/31/2018	By 01/10/2019

5. Reopeners

Total Maximum Daily Load (TMDL) / Nutrient Reopener

This permit shall be modified or, alternatively, revoked and reissued:

a. If any approved wasteload allocation procedure, pursuant to Section 303(d) of the Clean Water Act, imposes wasteload allocations, limits or conditions on the facility that are not consistent with the permit requirements;

b. To incorporate technology-based effluent concentration limitations for nutrients in conjunction with the installation of nutrient control technology, whether by new construction, expansion or upgrade, or

c. To incorporate alternative nutrient limitations and/or monitoring requirements, should:

(1) the State Water Control Board adopt new nutrient standards for the water body receiving the discharge, including the Chesapeake Bay or its tributaries, or

(2) a future water quality regulation or statute require new or alternative nutrient control.

Water Quality Criteria Reopener
Should effluent monitoring indicate the need for any water quality-based limitations, the permit may be modified or alternatively revoked and reissued to incorporate appropriate limitations.

6. Concept Engineering Report (CER)
Prior to constructing any wastewater treatment works, the permittee shall submit a Concept Engineering Report (CER) to the DEQ Piedmont Regional Office. DEQ written approval shall be secured prior to constructing any wastewater treatment works. The permittee shall construct the wastewater treatment works in accordance with the approved CER. No later than 14 days following completion of construction of any project for which a CER has been approved, written notification shall be submitted to the DEQ Piedmont Regional Office certifying that, based on an inspection of the project, construction was completed in accordance with the approved CER. The written notification shall be certified by a professional engineer licensed in the Commonwealth of Virginia or signed in accordance with Part II.K of this permit. The installed wastewater treatment works shall be operated to achieve design treatment and effluent concentrations. Approval by the Department of Environmental Quality does not relieve the owner of the responsibility for the correction of design and/or operational deficiencies. Noncompliance with the CER shall be deemed a violation of this permit.

7. Facility Closure Plan
If the permittee plans an expansion or upgrade to replace the existing treatment works, or if facilities are permanently closed, the permittee shall submit to the DEQ Piedmont Regional Office a closure plan for the existing treatment works. The plan shall address the following information as a minimum: Verification of elimination of sources and/or alternate treatment scheme; treatment, removal, and final disposition of residual wastewater and solids; removal/demolition/disposal of structures; equipment, piping, and appurtenances; site grading, and erosion and sediment control; restoration of site vegetation; access control; fill materials; and proposed land use (post-closure) of the site. The plan should contain proposed dates for the beginning and completion of the work. The plan must be approved by the DEQ Piedmont Regional Office prior to implementation. Once approved, the plan shall become an enforceable part of this permit and closure shall be implemented in accordance with the approved plan. No later than 14 calendar days following closure completion, the permittee shall submit to the DEQ Piedmont Regional Office written notification of the closure completion date and a certification of closure in accordance with the approved plan.

8. Form 2F Sampling
The Completed part VII of Form 2F shall be submitted within one year of the effective date of the permit.

C. STORMWATER MANAGEMENT CONDITIONS

1. Stormwater Management Evaluation
The Stormwater Pollution Prevention Plan, which is to be developed and maintained in accordance with subsection I.C.3 below, shall have a goal of reducing pollutants discharges from all the regulated industrial activity stormwater outfalls.

a. Pollutant Specific Screening
One goal of the SWPPP shall place emphasis on reducing to the maximum extent

practicable, the following pollutants in the outfalls noted below:

Pollutants	Outfall 001 Comparative Value	Outfall 002 Comparative Value	Outfall 003 Comparative Value
Total Recoverable Copper (µg/L)	7.3	NA	7.3
Total Recoverable Lead (µg/L)	41	NA	NA
Total Recoverable Zinc (µg/L)	72	NA	NA
TSS (mg/L)	100	100	100
TPH (mg/L)	15	15	15
TOC (mg/L)	110	110	110

b. The effectiveness of the SWPPP will be evaluated via the required monitoring for all parameters listed in Part I.A of this permit for the regulated stormwater outfalls, including the specific pollutants noted in a. above. Monitoring results that are above the comparative value for the specific pollutants in a. above will justify the need to reexamine the SWPPP for the affected outfall. In addition, the permittee shall amend the SWPPP whenever there is a change in the facility or its operation which materially increases the potential for activities to result in a discharge of significant amounts of pollutants.

No later than February 10 of each year, the permittee shall submit to the DEQ Piedmont Regional Office an annual report which includes the pollutant- specific monitoring data from the outfalls included in this condition along with a summary of any steps taken to modify the SWPPP based on the monitoring data.

2. General Stormwater Special Conditions

a. Sample Type

For all stormwater monitoring required in Part I.A or other applicable sections of this permit, a minimum of one grab sample shall be taken. Unless otherwise specified, all such samples shall be collected from the discharge resulting from a storm event that occurs at least 72 hours from the previously measurable storm event (a "measurable storm event" is defined as a storm event that results in an actual discharge from the site). The required 72-hour storm event interval is waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first three hours of the discharge, and the permittee shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. If stormwater discharges associated with industrial activity commingle with process or non-process water, then where practicable permittees must attempt to sample the stormwater discharge before it mixes with the non-stormwater discharge.

b. Recording of Results

For each measurement or sample taken pursuant to the storm event monitoring requirements of this permit, the permittee shall record and report with the Discharge Monitoring Reports (DMRs) the following information:

(1) The date and duration (in hours) of the storm event(s) sampled;

(2) The rainfall total (in inches) of the storm event which generated the sampled discharge; and

(3) The duration between the storm event sampled and the end of the previous measurable storm event.

c. Sampling Waiver

When a permittee is unable to collect stormwater samples required in Part I.A or other applicable sections of this permit within a specified sampling period due to adverse climatic conditions, the permittee shall collect a substitute sample from a separate qualifying event in the next period and submit these data along with the data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

d. Representative outfalls – substantially identical discharges

If the facility has two or more outfalls that discharge substantially identical effluents, based on similarities of the industrial activities, significant materials, size of drainage areas, and stormwater management practices occurring within the drainage areas of the outfalls, the permittee may conduct monitoring on the effluent of just one of the outfalls and report that the observations also apply to the substantially identical outfall(s). The substantially identical outfall monitoring provisions apply to quarterly visual monitoring, benchmark monitoring and impaired waters monitoring. The substantially identical outfall monitoring provisions are not available for numeric effluent limits monitoring.

The permittee shall include the following information in the SWPPP:

(1) The locations of the outfalls;

(2) Why the outfalls are expected to discharge substantially identical effluents, including evaluation of monitoring data, where available; and,

(3) Estimates of the size of the drainage area (in square feet) for each of the outfalls.

e. Quarterly Visual Examination of Stormwater Quality

(1) The permittee must perform and document a quarterly visual examination of a stormwater discharge associated with industrial activity from each outfall, except discharges exempted below. The examination(s) must be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The visual examination shall be made during normal working hours. If no storm event resulted in runoff from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided that documentation is included with the monitoring records indicating that no runoff occurred. The documentation must be signed and certified in accordance with Part II.K of this permit.

(2) Visual examinations must be made of samples collected in accordance with Part I.C.2.a. The examination must document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution. The examination must be conducted in a well-lit area. No analytical tests are required to be performed on the samples.

(3) The visual examination reports must be maintained on-site with the Stormwater Pollution Prevention Plan (SWPPP). The report must include the outfall location, the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the stormwater discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution), and probable sources of any observed stormwater contamination.

f. Authorized Non-stormwater Discharges

(1) The following non-stormwater discharges are authorized by this permit:

(a) Discharges from fire fighting activities;

(b) Fire hydrant flushings;

(c) Potable water including water line flushings;

(d) Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;

(e) Irrigation drainage;

(f) Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with the approved labeling;

(g) Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);

(h) Routine external building washdown which does not use detergents;

(i) Uncontaminated ground water or spring water;

(j) Foundation or footing drains where flows are not contaminated with process materials; and

(k) Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but NOT intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

(2) All other non-stormwater discharges are not authorized and shall either be eliminated or covered under a separate VPDES permit.

g. Releases of Hazardous Substances or Oil in Excess of Reportable Quantities

The discharge of hazardous substances or oil in the stormwater discharge(s) from the facility shall be prevented or minimized in accordance with the stormwater pollution prevention plan for the facility. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill. This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117 and 40 CFR 302 or § 62.1-44.34:19 of the Code of Virginia. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117 or 40 CFR 302 occurs during a 24-hour period:

(1) The permittee is required to notify the Department in accordance with the requirements of Part II.G as soon as he or she has knowledge of the discharge;

(2) Where a release enters a municipal separate storm sewer system (MS4), the permittee shall also notify the owner or the MS4; and

(3) The stormwater pollution prevention plan required by this permit must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

h. Water Quality Protection

The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards. DEQ expects that compliance with the conditions in this permit will control discharges as necessary to meet applicable water quality standards.

i. Corrective actions

(1) Data exceeding benchmarks concentration values.

(a) If the benchmark monitoring result exceeds the benchmark concentration value for that parameter, the permittee shall review the SWPPP and modify it as necessary to address any deficiencies that caused the exceedance. Revisions to the SWPPP shall be completed within 30 days after an exceedance is discovered. When control measures need to be modified or added (distinct from regular preventive maintenance of existing control measures described in Part I.C.3.c, implementation shall be completed before the next anticipated storm event if possible, but no later than 60 days after the exceedance is discovered, or as otherwise provided or approved by the DEQ Piedmont Regional Office. In cases where construction is necessary to implement control measures, the permittee shall include a schedule in the SWPPP that provides for the completion of the control measures as expeditiously as practicable, but no later than three years after the exceedance is discovered. Where a construction compliance schedule is included in the SWPPP, the plan shall include appropriate nonstructural and temporary controls to be implemented in the affected portion(s) of the facility prior to completion of the permanent control measure. Any control measure modifications shall be documented and dated, and retained with the SWPPP, along with the amount of time taken to modify the applicable control measure or implement additional control measures.

(b) Natural background pollutant levels. If the concentration of a pollutant exceeds a benchmark concentration value, and the permittee determines that exceedance of the benchmark is attributable solely to the presence of that pollutant in the natural background, corrective action is not required provided that:

(i) The concentration of the benchmark monitoring result is less than or equal to the concentration of that pollutant in the natural background;

(ii) The permittee documents and maintains with the SWPPP the supporting rationale for concluding that benchmark exceedances are in fact attributable solely to natural background pollutant levels. The supporting rationale shall include any data previously collected by the facility or others (including literature studies) that describe the levels of natural background pollutants in the facility's stormwater discharges; and

(iii) The permittee notifies the DEQ Piedmont Regional Office on the DMR that the benchmark exceedances are attributable solely to natural background pollutant levels. Natural background pollutants include those substances that are naturally occurring in soils or groundwater. Natural background pollutants do not include legacy pollutants from earlier activity on the facility's site, or pollutants in run-on from neighboring sources which are not naturally occurring.

(2) Corrective actions. The permittee shall take corrective action whenever:

(a) Routine facility inspections, comprehensive site compliance evaluations, inspections by local, state or federal officials, or any other process, observation or event result in a determination that modifications to the stormwater control measures are necessary to meet the permit requirements; or

(b) There is any exceedance of an effluent limitation (including coal pile runoff), or TMDL wasteload allocation; or

(c) The DEQ Piedmont Regional Office determines, or the permittee becomes aware, that the stormwater control measures are not stringent enough for the discharge to meet applicable water quality standards.

The permittee shall review the SWPPP and modify it as necessary to address any deficiencies. Revisions to the SWPPP shall be completed within 30 days following the discovery of the deficiency. When control measures need to be modified or added (distinct from regular preventive maintenance of existing control measures described in Part I.C.3.c), implementation shall be completed before the next anticipated storm event if possible, but no later than 60 days after the deficiency is discovered, or as otherwise provided or approved by the DEQ Piedmont Regional Office. In cases where construction is necessary to implement control measures, the permittee shall include a schedule in the SWPPP that provides for the completion of the control measures as expeditiously as practicable, but no later than three years after the deficiency is discovered. Where a construction compliance schedule is included in the SWPPP, the plan shall include appropriate nonstructural and/or temporary controls to be implemented in the affected portion(s) of the facility prior to completion of the permanent control measure. The amount of time taken to modify a control measure or implement additional control measures shall be documented in the SWPPP.

Any corrective actions taken shall be documented and retained with the SWPPP. Reports of corrective actions shall be signed in accordance with Part II.K.

(3) Follow-up reporting. If at any time monitoring results indicate that discharges from the facility exceed an effluent limitation or a TMDL wasteload allocation, or the DEQ Piedmont Regional Office determines that discharges from the facility are causing or contributing to an exceedance of a water quality standard, immediate steps shall be taken to eliminate the exceedances in accordance with the above Part I.C.2.i(2). Within 30 calendar days of implementing the relevant corrective action(s) an exceedance report shall be submitted to the DEQ Piedmont Regional Office. The following information shall be included in the report: permit number; facility name, address and location; receiving water; monitoring data from this event; an explanation of the situation; description of what has been done and the intended actions (should the corrective actions not yet be complete) to further reduce pollutants in the discharge; and an appropriate contact name and phone number.

j. Additional Requirements for Salt Storage

Storage piles of salt or piles containing salt used for deicing or other commercial or industrial purposes shall be enclosed or covered to prevent exposure to precipitation. The permittee shall implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from adding to or removing materials from the pile. All salt storage piles shall be located on an impervious surface. All runoff from the pile, and/or runoff that comes in contact with salt, including under drain systems, shall be collected and contained within a bermed basin lined with concrete or other impermeable materials., or within an underground storage tank(s), or within an above ground storage tank(s), or disposed of through a sanitary sewer (with the permission of the treatment facility). A combination of any or all of these methods may be used. In no case shall salt contaminated stormwater be allowed to discharge directly to the ground or to state waters.

3. Stormwater Pollution Prevention Plan

A stormwater pollution prevention plan (SWPPP) shall be developed and implemented for the facility. The SWPPP is intended to document the selection, design, and installing of control measures, including BMPs to eliminate or reduce the pollutants in all stormwater discharges from the facility and to meet applicable effluent limitations and water quality standards.

Permittees shall implement the provisions of the stormwater pollution prevention plan as a condition of this permit.

The stormwater pollution prevention plan requirements of this permit may be fulfilled, in part by incorporating by reference other plans or documents such as a spill prevention control and countermeasure (SPCC) plan developed for the facility under Section 311 of the Clean Water Act, or best management practices (BMP) programs otherwise required for the facility, provided that the incorporated plan meets or exceeds the plan requirements of Part I.C.3.b. All plans incorporated by reference into the stormwater pollution prevention plan become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements of the SWPPP of Part I.C.3.b the permittee shall develop the missing SWPPP elements and include them in the required plan.

a. Deadlines for Plan Preparation and Compliance

(1) The facility shall prepare and implement any revisions to the SWPPP as expeditiously as practicable, but not later than 90 days from the effective date of the permit.

(2) Measures That Require Construction. In cases where construction is necessary to implement measures required by the plan, the plan shall contain a schedule that provides compliance with the plan as expeditiously as practicable, but no later than 3 years after the effective date of this permit. Where a construction compliance schedule is included in the plan, the schedule shall include appropriate nonstructural and/or temporary controls to be implemented in the affected portion(s) of the facility prior to completion of the permanent control measure.

b. Contents of the Plan

The contents of the SWPPP shall comply with the requirements listed below. The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team: The plan shall identify the staff individuals by name or title who comprise the facility's stormwater pollution prevention team. The pollution prevention team is responsible for assisting the facility or plant manager in

developing, implementing, maintaining, revising, and ensuring compliance with the facility's SWPPP. Specific responsibilities of each staff individual on the team shall be identified and listed.

(2) Site Description: The SWPPP shall include the following:

(a) Activities at the Facility: A description of the nature of the industrial activities at the facility.

(b) General Location Map: A general location map (e.g., USGS quadrangle or other map) with enough detail to identify the location of the facility and the receiving waters within one mile of the facility.

(c) Site Map: A site map identifying the following:

(i) The boundaries of the property and the size of the property (in acres);

(ii) The location and extent of significant structures and impervious surfaces (roofs, paved areas and other impervious areas);

(iii) Locations of all stormwater conveyances including ditches, pipes, swales, and inlets, and the directions of stormwater flow (use arrows to show which ways stormwater will flow);

(iv) Locations of all existing structural and source control measures, including BMPs;

(v) Locations of all surface water bodies, including wetlands;

(vi) Locations of potential pollutant sources identified under Part I.C.3.b(3);

(vii) Locations where significant spills or leaks identified under Part I.C.3.b(4) have occurred;

(viii) Locations of the following activities where such activities are exposed to precipitation: fueling stations; vehicle and equipment maintenance and cleaning areas; loading and unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; processing and storage areas; access roads, rail cars and tracks; transfer areas for substances in bulk; and machinery;

(ix) Locations of stormwater outfalls and an approximate outline of the area draining to each outfall, and location of municipal storm sewer systems, if the stormwater from the facility discharges to them;

(x) Location and description of all non-stormwater discharges;

(xi) Location of any storage piles containing salt used for deicing or other commercial or industrial purposes;

(xii) Locations and sources of run-on to the site from adjacent property where the run-on contains significant quantities of pollutants; and

(xiii) Locations of all stormwater monitoring points.

(d) Receiving Waters and Wetlands. The name of all surface waters receiving discharges from the site, including intermittent streams, dry sloughs, and arroyos. Provide a description of wetland sites that may receive discharges from the

facility. If the facility discharges through a municipal separate storm sewer system (MS4), identify the MS4 operator, and the receiving water to which the MS4 discharges.

(3) Summary of Potential Pollutant Sources: The plan shall identify each separate area at the facility where industrial materials or activities are exposed to stormwater. Industrial materials or activities include, but are not limited to: material handling equipment or activities, industrial machinery, raw materials, industrial production and processes, intermediate products, byproducts, final products, and waste products. Material handling activities include, but are not limited to: the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product or waste product. For each separate area identified, the description shall include:

(a) Activities in the area: A list of the industrial activities exposed to stormwater (e.g., material storage, equipment fueling and cleaning, cutting steel beams);

(b) Pollutants: A list of the pollutant(s) or pollutant constituents (e.g., crankcase oil-zinc, sulfuric acid, cleaning solvents, etc.) associated with each industrial activity. The pollutant list shall include all significant materials handled, treated, stored or disposed that have been exposed to stormwater in the three years prior to the date this SWPPP was prepared or amended. The list shall include any hazardous substances or oil at the facility.

(4) Spills and Leaks: The SWPPP shall clearly identify areas where potential spills and leaks that can contribute pollutants to stormwater discharges can occur and their corresponding outfalls. The plan shall include a list of significant spills and leaks of toxic or hazardous pollutants that actually occurred at exposed areas, or that drained to a stormwater conveyance during the three-year period prior to the date this SWPPP was prepared or amended. The list shall be updated if significant spills or leaks occur in exposed areas of the facility during the term of the permit. Significant spills and leaks include, but are not limited to, releases of oil or hazardous substances in excess of reportable quantities.

(5) Sampling Data: The plan shall include a summary of existing stormwater discharge sampling data taken at the facility. The summary shall include, at a minimum, any data collected during the previous permit term.

(6) Stormwater Controls:

(a) Control measures shall be implemented for all the areas identified in Part I.C.3.b(3) (Summary of Potential Pollutant Sources) to prevent or control pollutants in stormwater discharges from the facility. Regulated stormwater discharges from the facility include stormwater run-on that commingles with stormwater discharges associated with industrial activity at the facility. The SWPPP shall describe the type, location and implementation of all control measures for each area where industrial materials or activities are exposed to stormwater. Selection of control measures shall take into consideration:

(i) That preventing stormwater from coming into contact with polluting materials is generally more effective, and less costly, than trying to remove pollutants from stormwater;

(ii) Control measures generally shall be used in combination with each other for most effective water quality protection;

(iii) Assessing the type and quantity of pollutants, including their potential to impact receiving water quality, is critical to designing effective control measures;

(iv) That minimizing impervious areas at the facility can reduce runoff and improve groundwater recharge and stream base flows in local streams (however, care must be taken to avoid ground water contamination);

(v) Flow attenuation by use of open vegetated swales and natural depressions can reduce in-stream impacts of erosive flows;

(vi) Conservation or restoration of riparian buffers will help protect streams from stormwater runoff and improve water quality; and

(vii) Treatment interceptors (e.g., swirl separators and sand filters) may be appropriate in some instances to minimize the discharge of pollutants.

(b) Nonnumeric technology-based effluent limits. The permittee shall implement the following types of control measures to prevent and control pollutants in the stormwater discharges from the facility, unless it can be demonstrated and documented that such controls are not relevant to the discharges (e.g., there are no storage piles containing salt).

(i) Good Housekeeping: The permittee shall keep clean all exposed areas of the facility that are potential sources of pollutants to stormwater discharges. Typical problem areas include areas around trash containers, storage areas, loading docks, and vehicle fueling and maintenance areas. The plan shall include a schedule for regular pickup and disposal of waste materials, along with routine inspections for leaks and conditions of drums, tanks and containers.

(ii) Eliminating and Minimizing Exposure. To the extent practicable manufacturing, processing and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) shall be located inside, or protected by a storm-resistant covering to prevent exposure to rain, snow, snowmelt, and runoff. Note: Eliminating exposure at all industrial areas may make the facility eligible for the "Conditional Exclusion for No Exposure" provision of 9VAC25-31-120 E, thereby eliminating the need to have a permit.

(iii) Preventive Maintenance. The permittee shall have a preventive maintenance program that includes regular inspection, testing, maintenance and repairing of all industrial equipment and systems to avoid situations that could result in leaks, spills and other releases of pollutants in stormwater discharge from the facility. This program is in addition to the specific control measure maintenance required under Part I.C.3.c.

(iv) Spill Prevention and Response Procedures. The plan shall describe the procedures that will be followed for preventing and responding to spills and leaks, including:

(A) Preventive measures, such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;

(B) Response procedures, including notification of appropriate facility personnel, emergency agencies, and regulatory agencies, and procedures for stopping, containing and cleaning up spills. Measures for cleaning up hazardous material spills or leaks shall be consistent with applicable RCRA regulations at 40 CFR Part 264 and 40 CFR Part 265. Employees who may cause, detect or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals shall be a member of the Pollution Prevention Team;

(C) Procedures for plainly labeling containers (e.g., "used Oil," "Spent Solvents," "Fertilizers and Pesticides," etc.) that could be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response if spills or leaks occur; and

(D) Contact information for individuals and agencies that must be notified in the event of a spill shall be included in the SWPPP, and in other locations where it will be readily available.

(v) Routine Facility Inspections. Facility personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility, and who can also evaluate the effectiveness of control measures shall regularly inspect all areas of the facility where industrial materials or activities are exposed to stormwater. These inspections are in addition to, or as part of, the comprehensive site evaluation required under Part I.C.3.d. At least one member of the Pollution Prevention Team shall participate in the routine facility inspections.

The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly unless more frequent intervals are specified elsewhere in the permit or written approval is received from the Department for less frequent intervals. At least once each calendar year, the routine facility inspection must be conducted during a period when a stormwater discharge is occurring.

Any deficiencies in the implementation of the SWPPP that are found shall be corrected as soon as practicable, but not later than within 30 days of the inspection, unless permission for a later date is granted in writing by the Director. The results of the inspections shall be documented in the SWPPP, and shall include at a minimum:

(A) The inspection date and time;

(B) The name and signature of the inspector(s);

(C) Weather information and a description of any discharges occurring at the time of the inspection;

(D) Any previously unidentified discharges of pollutants from the site;

(E) Any control measures needing maintenance or repairs;

(F) Any failed control measures that need replacement;

(G) Any incidents of noncompliance observed; and

(H) Any additional control measures needed to comply with the permit requirements.

(vi) Employee Training: The permittee shall implement a stormwater employee training program for the facility. The SWPPP shall include a schedule for all types of necessary training, and shall document all training sessions and the employees who received the training. Training shall be provided for all employees who work in areas where industrial materials or activities are exposed to stormwater, and for employees who are responsible for implementing activities identified in the SWPPP (e.g., inspectors, maintenance personnel, etc.). The training shall cover the components and goals of the SWPPP, and include such topics as spill response, good housekeeping, material management practices, control measures operation and maintenance, etc. The SWPPP shall include a summary of any training performed.

(vii) Sediment and Erosion Control. The plan shall identify areas at the facility that, due to topography, land disturbance (e.g., construction, landscaping, site grading), or other factors, have a potential for soil erosion. The permittee shall identify and implement structural, vegetative, and stabilization control measures to prevent or control on-site and off-site erosion and sedimentation. Flow velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel if the flows would otherwise create erosive conditions.

(viii) Management of Runoff. The plan shall describe the stormwater runoff management practices (i.e., permanent structural control measures) for the facility. These types of control measures are typically used to divert, infiltrate, reuse, or otherwise reduce pollutants in stormwater discharges from the site.

Structural control measures may require a separate permit under § 404 of the CWA and the Virginia Water Protection Permit Program Regulation (9 VAC 25-210) before installation begins.

(ix) Dust suppression and vehicle tracking of industrial materials. The permittee shall implement control measures to minimize the generation of dust and off-site tracking of raw, final, or waste materials. Stormwater collected on site may be used for the purposes of dust suppression or for spraying stockpiles. Potable water, well water and uncontaminated reuse water may also be used for this purpose. There shall be no direct discharge to surface waters from dust suppression activities or as a result of spraying stockpiles.

c. Maintenance

The SWPPP shall include a description of procedures and a regular schedule for preventive maintenance of all control measures, and shall include a description of the back-up practices that are in place should a runoff event occur while a control measure is off-line. The effectiveness of nonstructural control measures shall also be maintained by appropriate means (e.g., spill response supplies available and personnel trained, etc.).

All control measures identified in the SWPPP shall be maintained in effective operating condition and shall be observed at least annually during active operation (i.e., during a stormwater runoff event) to ensure that they are functioning correctly. Where discharge locations are inaccessible, nearby downstream locations shall be observed. The observations shall be documented in the SWPPP.

If site inspections required by Part I.C.3.b(6)(b)(v) (Routine Facility Inspections) or Part I.C.3.d (Comprehensive Site Compliance Evaluation) identify control measures that are not operating effectively, repairs or maintenance shall be performed before the next anticipated storm event. If maintenance prior to the next anticipated storm event is not possible, maintenance shall be scheduled and accomplished as soon as practicable. In the interim, back-up measures shall be employed and documented in the SWPPP until repairs or maintenance is complete. Documentation shall be kept with the SWPPP of maintenance and repairs of control measures, including the date(s) of regular maintenance, date(s) of discovery of areas in need of repair or replacement, date(s) for repairs, date(s) that the control measure(s) returned to full function, and the justification for any extended maintenance or repair schedules.

d. Comprehensive Site Compliance Evaluation: The permittee shall conduct comprehensive site compliance evaluations at least once each calendar year. The evaluations shall be done by qualified personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility, and who can also evaluate the effectiveness of control measures. The personnel conducting the evaluations may be either facility employees or outside personnel hired by the facility.

(1) Scope of the Compliance Evaluation: Evaluations shall include all areas where industrial materials or activities are exposed to stormwater, as identified in Part I.C.3.b(3) (Summary of potential pollutant sources). The personnel shall evaluate:

(a) Industrial materials, residue or trash that may have or could come into contact with stormwater;

(b) Leaks or spills from industrial equipment, drums, barrels, tanks or similar containers that have occurred within the past three years;

(c) Off-site tracking of industrial or waste materials or sediment where vehicles enter or exit the site;

(d) Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas;

(e) Evidence of, or the potential for, pollutants entering the drainage system;

(f) Evidence of pollutants discharging to surface waters at all facility outfalls, and the condition of and around the outfall, including flow dissipation measures to prevent scouring;

(g) Review of stormwater related training performed, inspections completed, maintenance performed, quarterly visual examinations, and effective operation of control measures including BMPs;

(h) Results of both visual and any analytical monitoring done during the past year shall be taken into consideration during the evaluation.

(2) Based on the results of the evaluation, the SWPPP shall be modified as necessary (e.g., show additional controls on the map required by Part I.C.3.b(2)(c); revise the description of controls required by Part I.C.3.b(6) to include additional or modified control meausres designed to correct problems identified). Revisions to the SWPPP shall be completed within 30 days following the evaluation, unless permission for a

later date is granted in writing by the Director. If existing control measures need to be modified or if additional control measures are necessary, implementation shall be completed before the next anticipated storm event, if practicable, but not more than 60 days after completion of the comprehensive site evaluation, unless permission for a later date is granted in writing by the Department.

(3) Compliance Evaluation Report: A report shall be written summarizing the scope of the evaluation, name(s) of personnel making the evaluation, the date of the evaluation, and all observations relating to the implementation of the SWPPP, including elements stipulated in Part I.C.3.d(1) (a) through (h) above. Observations shall include such things as: the location(s) of discharges of pollutants from the site; location(s) of previously unidentified sources of pollutants; location(s) of control measures that need to be maintained or repaired; location(s) of failed control measures that need replacement; and location(s) where additional control measures are needed. The report shall identify any incidents of noncompliance that were observed. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP and this permit. The report shall be signed in accordance with Part II.K and maintained with the SWPPP.

(4) Where compliance evaluation schedules overlap with routine inspections required under Part I.C.3.b(6)(b)(v), (Routine facility inspections) the annual compliance evaluation may be used as one of the routine inspections.

e. Signature and Plan Review

(1) Signature and location. The SWPPP, including revisions to the SWPPP to document any corrective actions taken as required by Part I.C.2(i), shall be signed in accordance with Part II.K, dated, and retained on-site at the facility covered by this permit in accordance with Part II.B.2. All other changes to the SWPPP, and other permit compliance documentation, shall be signed and dated by the person preparing the change or documentation.

(2) Availability. The permittee shall retain a copy of the current SWPPP required by this permit at the facility, and it shall be immediately available to the Department, EPA or the operator of an MS4 receiving discharges from the site at the time of an onsite inspection or upon request.

(3) Required Modifications. The permittee shall modify the SWPPP whenever necessary to address any corrective actions required by Part I.C.2(i)(1) or Part I.C.2(i). Changes to the SWPPP shall be made in accordance with the corrective action deadlines in Part I.C.2(i)(1) and Part I.C.2(i), and shall be signed and dated in accordance with Part II.K.

The Director may notify the permittee at any time that the SWPPP, control measures, or other components of the facility's stormwater program do not meet one or more of the requirements of this permit. The notification shall identify specific provisions of the permit that are not being met, and may include required modifications to the stormwater program, additional monitoring requirements, and special reporting requirements. The permittee shall make any required changes to the SWPPP within 60 days of receipt of such notification, unless permission for a later date is granted in writing by the Director, and shall submit a written certification to the Director that the requested changes have been made.

f. Maintaining an Updated SWPPP

(1) The permittee shall review and amend the SWPPP as appropriate whenever:

(a) There is construction or a change in design, operation, or maintenance at the facility that has a significant effect on the discharge, or the potential for the discharge, of pollutants from the facility;

(b) Routine inspections or compliance evaluations determine that there are deficiencies in the control measures, including BMPs;

(c) Inspections by local, state, or federal officials determine that modifications to the SWPPP are necessary;

(d) There is a spill, leak or other release at the facility; or

(e) There is an unauthorized discharge from the facility.

(2) SWPPP modifications shall be made within 30 calendar days after discovery, observation or event requiring a SWPPP modification. Implementation of new or modified control measures (distinct from regular preventive maintenance of existing control measures described in Part I.C.3.b(6)(b)(iii)) shall be initiated before the next storm event if possible, but no later than 60 days after discovery, or as otherwise provided or approved by the Director. The amount of time taken to modify a control measure or implement additional control measures shall be documented in the SWPPP.

(3) If the SWPPP modification is based on a release or unauthorized discharge, include a description and date of the release, the circumstances leading to the release, actions taken in response to the release, and measures to prevent the recurrence of such releases. Unauthorized releases and discharges are subject to the reporting requirements of Part II.G of this permit.

4. Sector Specific SWPPP Requirements

In addition to the requirements of Part I.C.3, the SWPPP shall include, at a minimum, the following items:

a. Site Description.

Site Map. The site map shall identify the locations of any of the following activities and indicate whether the activities may be exposed to precipitation or surface runoff: fueling stations; vehicle and equipment maintenance or cleaning areas; storage areas for vehicle and equipment with actual or potential fluid leaks; loading and unloading areas; areas where treatment, storage or disposal of wastes occur; liquid storage tanks; processing areas; and storage areas.

b. Summary of Potential Pollutant Sources.

The plan shall describe and assess the potential for the following to contribute pollutants to stormwater discharges: on-site waste storage or disposal; dirt or gravel parking areas for vehicles awaiting maintenance; and fueling areas.

c. Stormwater Controls.

(1) Good Housekeeping.

(a) Vehicle and Equipment Storage Areas. The storage of vehicles and equipment awaiting maintenance with actual or potential fluid leaks shall be confined to designated areas (delineated on the site map). The permittee shall consider the following measures (or their equivalents): the use of drip pans under vehicles and equipment; indoor storage of vehicles and equipment; installation of berms or dikes; use of absorbents; roofing or covering storage areas; and cleaning pavement surface to remove oil and grease.

(b) Fueling Areas. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from fueling areas. The permittee shall consider the following measures (or their equivalents): covering the fueling area; using spill and overflow protection and cleanup equipment; minimizing stormwater run-on and runoff to the fueling area; using dry cleanup methods; and treating or recycling collected stormwater runoff.

(c) Material Storage Areas. Storage vessels of all materials (e.g., for used oil or oil filters, spent solvents, paint wastes, hydraulic fluids) shall be maintained in good condition, so as to prevent contamination of stormwater, and plainly labeled (e.g. "used oil," "spent solvents," etc.). The permittee shall consider the following measures (or their equivalents): indoor storage of the materials; installation of berms and dikes around the areas, minimizing runoff of stormwater to the areas; using dry cleanup methods; and treating or recycling the collected stormwater runoff.

(d) Vehicle and Equipment Cleaning Areas. The permittee shall describe and implement measures that prevent or minimize contamination of stormwater runoff from all areas used for vehicle and equipment cleaning. The permittee shall consider the following measures (or their equivalents): performing all cleaning operations indoors; covering the cleaning operation; ensuring that all washwaters drain to a proper collection system (i.e., not the stormwater drainage system unless VPDES permitted); and treating or recycling the collected stormwater runoff.

(e) Vehicle and Equipment Maintenance Areas. The permittee shall describe and implement measures that prevent or minimize contamination of the stormwater runoff from all areas used for vehicle and equipment maintenance. The permittee shall consider the following measures (or their equivalents): performing maintenance activities indoors; using drip pans; keeping an organized inventory of materials used in the shop; draining all parts of fluids prior to disposal; prohibiting wet clean up practices where the practices would result in the discharge of pollutants to stormwater drainage systems; using dry cleanup methods; treating or recycling collected stormwater runoff; and minimizing run-on and runoff of stormwater to maintenance areas.

(f) Locomotive Sanding (Loading Sand for Traction) Areas. The plan shall describe measures that prevent or minimize contamination of the stormwater runoff from areas used for locomotive sanding. The permittee shall consider the following measures (or their equivalents): covering sanding areas; minimizing stormwater run-on and runoff; or appropriate sediment removal practices to minimize the off-site transport of sanding material by stormwater.

(2) Routine Facility Inspections. The following areas and activities shall be included in all inspections: storage area for vehicles and equipment awaiting maintenance; fueling areas; indoor and outdoor vehicle and equipment maintenance areas; material storage areas; vehicle and equipment cleaning areas; and loading and unloading areas.

(3) Employee Training. Employee training shall take place, at a minimum, annually (once per calendar year). Employee training shall address the following, as applicable: used oil

and spent solvent management; fueling procedures; general good housekeeping practices; proper painting procedures; and used battery management.

5. Benchmark Monitoring

Exceedance of a benchmark concentration does not constitute a violation of this permit and does not indicate that violation of a water quality standard has occurred; however, it does signal that modifications to the SWPPP are necessary, unless justification is provided in the comprehensive site compliance evaluation (Part I.C.3.d). In addition, exceedance of benchmark concentrations may indicate the requirement for more specific pollution prevention controls.

Table 1. Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
TSS (mg/L)	100
TPH (mg/L)	15

6. Facilities in the Chesapeake Bay Watershed

a. Owners of facilities in the Chesapeake Bay watershed shall monitor their industrial stormwater discharges for total suspended solids (TSS), total nitrogen (TN), and total phosphorus (TP) to characterize the contributions from their facility's specific industrial sector for these parameters. Samples shall be collected during each of the first four monitoring periods (i.e., the first two years of permit coverage). Monitoring periods are specified in Part I.A.1/2/3.c. Samples shall be collected and analyzed in accordance with Part I.A.1, I.A.2 and I.A.3. Monitoring results shall be reported in accordance with Part I.B.3 and Part II.C, and retained in accordance with Part II.B.

b. Chesapeake Bay TMDL wasteload allocations and Chesapeake Bay TMDL action plans

(1) EPA's Chesapeake Bay TMDL (December 29, 2010) includes wasteload allocations for VPDES permitted industrial stormwater facilities as part of the regulated stormwater aggregate load. EPA used data submitted by Virginia with the Phase I Chesapeake Bay TMDL Watershed Implementation Plan, including the number of industrial stormwater permits per county and the number of urban acres regulated by industrial stormwater permits, as part of their development of the aggregate load. Aggregate loads for industrial stormwater facilities were appropriate because actual facility loading data were not available to develop individual facility wasteload allocations.

Virginia estimated the loadings from industrial stormwater facilities using actual and estimated facility acreage information, and TP, TN, and TSS loading values from the Northern Virginia Planning District Commission (NVPDC) Guidebook for Screening Urban Nonpoint Pollution Management Strategies, prepared for the Metropolitan Washington Council of Governments. Annandale, VA. November, 1979. The loading values used were as follows:

TP - High (80%) imperviousness industrial; 1.5 lb/ac/yr

TN - High (80%) imperviousness industrial; 12.3 lb/ac/yr

TSS - High (80%) imperviousness industrial; 440 lb/ac/yr

The actual facility area information, and the TP, TN and TSS data collected for this permit will be used by DEQ to quantify the nutrient and sediment loads from VPDES permitted industrial stormwater facilities, and will be submitted to EPA to aid them in further refinements to their Chesapeake Bay TMDL model. The loading information will also be used by DEQ to determine any additional load reductions needed for industrial stormwater facilities for the next reissuance of this permit.

(2) Data analysis and Chesapeake Bay TMDL action plans. The permittee shall analyze the nutrient and sediment data collected in accordance with subdivision 6.b.1 of this subsection to determine if additional action is needed for this permit term. The permittee shall average the data collected at the facility for each of the pollutants of concern (POC) (e.g., TP, TN and TSS) and compare the results to the loading values for TP, TN and TSS presented in subdivision 6.b.(2) of this subsection. To calculate the facility loadings, the permittee shall use either the actual annual average rainfall data for the facility location (in inches/year) or the Virginia annual average rainfall of 44.3 inches/year.

The following formula or a site specific, DEQ-approved calculation shall be used to determine the loading value:

$$\mathbf{L = 0.226 \times R \times C} \qquad \text{Equation (1)}$$

where:

L = the Pollutant of Concern (POC) loading value (lb/acre/year)

C = the POC average concentration of all facility samples (mg/L)

0.226 = unit conversion factor

R = annual runoff (in/yr), calculated as: $R = P \times P_j \times R_v$

where:

P = annual rainfall (in/yr) [use the Virginia annual average of 44.3 in/yr, or site specific annual rainfall for your area of the State]

P_j = the fraction of annual events that produce runoff (usually 0.9)

R_v = the runoff coefficient, which can be expressed as: $R_v = 0.05 + (0.9 \times I_a)$

I_a = the impervious fraction [the ratio of facility impervious area to the total facility area]

or, $I_a = AREA_{IMPERVIOUS} / AREA_{TOTAL}$

Substituting in Equation (1):

$$\mathbf{L = 0.226 \times P \times P_j \times (0.05 + (0.9 \times I_a)) \times C} \qquad \text{Equation (2)}$$

(3) If the calculated facility loading value for TP, TN or TSS is less than the corresponding loading value presented in subdivision 6.b.(2) of this subsection,

then the calculations demonstrating that no reduction is necessary **shall be submitted within 90 days from the end of the second year's monitoring period**. The calculations shall include a site map with the total site area, the areas associated with industrial activity and the total impervious area.

If the calculated facility loading value for TP, TN or TSS exceeds the corresponding loading value presented in subdivision 6.b.(2) of this subsection, then the permittee shall develop and submit a Chesapeake Bay TMDL Action Plan to DEQ for review and approval The plan shall include a site map with the total site area, the areas associated with industrial activity and the total impervious area. The permittee shall implement the applicable elements of the approved plan over the remaining term of this permit and achieve all the necessary reductions by June 30, 2024. **The plan shall be submitted within 90 days from the end of the second year's monitoring period**. The action plan shall include:

(i) A determination of the total pollutant load reductions for TP, TN and TSS (as appropriate) necessary to reduce the annual loads from industrial activities. This shall be determined by calculating the difference between the loading values listed in subdivision 6.b.(2) of this subsection, and the average of the sampling data for TP, TN or TSS (as appropriate) for the entire facility. The reduction applies to the total difference calculated for each pollutant of concern;

(ii) The means and methods, such as management practices and retrofit programs, that will be utilized to meet the required reductions determined in subdivision 6.b.(3)(i) of this subsection, and a schedule to achieve those reductions by June 30, 2024. The schedule should include annual benchmarks to demonstrate the ongoing progress in meeting those reductions;

(iii) The permittee may consider utilization of any pollutant trading or offset program in accordance with §§ 62.1-44.19:20 through 62.1-44.19:23 of the Code of Virginia, governing trading and offsetting, to meet the required reductions.

(4) Permittees required to develop and implement a Chesapeake Bay TMDL Action Plan shall submit an annual report to the department by June 30th of each year describing the progress in meeting the required reductions.

6. Discharges Through a Regulated MS4 to Waters Subject to the Chesapeake Bay TMDL

In addition to the requirements of this permit, any facility with industrial activity discharges through a regulated MS4 that is notified by the MS4 operator that the locality has adopted ordinances to meet the Chesapeake Bay TMDL shall incorporate measures and controls into their SWPPP to comply with applicable local TMDL ordinance requirements.

7. Expansion of Facilities That Discharge to Waters Subject to the Chesapeake Bay TMDL

Virginia's Phase I Chesapeake Bay TMDL Watershed Implementation Plan (November 29, 2010), states that the wasteloads from any expansion of an existing permitted facility discharging stormwater in the Chesapeake Bay watershed cannot exceed the nutrient and sediment loadings that were discharged from the expanded portion of the land prior to the land being developed for the expanded industrial activity.

a. For any industrial activity area expansions (i.e., construction activities, including clearing, grading and excavation activities) that commence on or after the effective date of this permit, the permittee shall document in the SWPPP the information and calculations used to determine the nutrient and sediment loadings discharged from the expanded land area prior to the land being developed, and the measures and controls that were employed to meet the no net increase of stormwater nutrient and sediment loads as a result of the expansion of the industrial activity. Any land disturbance that is exempt from permitting under the VPDES construction stormwater general permit regulation (9VAC25-880) is exempt from this requirement.

b. The permittee may use the VSMP water quality design criteria to meet the requirements of subdivision a. of this subsection. Under this criterion, the total phosphorus load shall not exceed the greater of:
   (i) The total phosphorus load that was discharged from the expanded portion of the land prior to the land being developed for the industrial activity; or

   (ii) 0.41 pounds per acre per year.

   Compliance with the water quality design criteria may be determined utilizing the Virginia Runoff Reduction Method or another equivalent methodology approved by the board. Design specifications and pollutant removal efficiencies for specific BMPs can be found on the Virginia Stormwater BMP Clearinghouse website at http://www.vwrrc.vt.edu/swc.

c. The permittee may consider utilization of any pollutant trading or offset program in accordance with §§ 62.1-44.19:20 through 62.1-44.19:23 of the Code of Virginia, governing trading and offsetting, to meet the no net increase requirement.

CONDITIONS APPLICABLE TO ALL VPDES PERMITS

A. Monitoring.

1. Samples and measurements required by this permit shall be taken at the permit designated or approved location and be representative of the monitored activity.

   a. Monitoring shall be conducted according to procedures approved under Title 40 Code of Federal Regulations Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

   b. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

   c. Samples taken shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.

2. Any pollutant specifically addressed by this permit that is sampled or measured at the permit designated or approved location more frequently than required by this permit shall meet the requirements in A 1 a through c above and the results of this monitoring shall be included in the calculations and reporting required by this permit.

3. Operational or process control samples or measurements shall not be taken at the designated permit sampling or measurement locations. Operational or process control samples or measurements do not need to follow procedures approved under Title 40 Code of Federal Regulations Part 136 or be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.

B. Records.

1. Records of monitoring information shall include:

   a. The date, exact place, and time of sampling or measurements;

   b. The individual(s) who performed the sampling or measurements;

   c. The date(s) and time(s) analyses were performed;

   d. The individual(s) who performed the analyses;

   e. The analytical techniques or methods used; and

   f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application.

This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the Board.

C. Reporting Monitoring Results.

1. The permittee shall submit the results of the monitoring required by this permit by hard copy or by E-DMR not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to:

Piedmont Regional Office
4949-A Cox Rod
Glen Allen, VA 23060

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the Department.

3. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to Provide Information.

The permittee shall furnish to the Department, within a reasonable time, any information which the Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

E. Compliance Schedule Reports.

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized Discharges.

Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of Unauthorized Discharges.

Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F;

or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the Department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the Department, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit. Discharges reportable to the Department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of Unusual or Extraordinary Discharges.

If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the Department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the Department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of Noncompliance

The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:

    a. Any unanticipated bypass; and

    b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within 5 days and shall contain:

    a. A description of the noncompliance and its cause;

    b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The Board may waive the written report on a case-by-case basis for reports of noncompliance under Part II I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts II I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2.

NOTE: The immediate (within 24 hours) reports required in Parts II G, H and I may be made to the Department's Regional Office at (804) 527-5020 (voice), (804) 527-5106 (fax), or online at pro.SSO-UD@deq.virginia.gov. For telephone reports outside normal working hours, follow the instructions on the voicemail to reach the appropriate staff. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of Planned Changes.

1. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under Section 306 of Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with Section 306 of Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory Requirements.

1. Applications. All permit applications shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this

section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the Board shall be signed by a person described in Part II K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part II K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

c. The written authorization is submitted to the Department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the Department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts II K 1 or 2 shall make the following certification:
"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to Comply.

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to Reapply.

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. All permittees with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Board. The Board shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

N. Effect of a Permit.

This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State Law.

Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by Section 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II U), and "upset" (Part II V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and Hazardous Substance Liability.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Sections 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper Operation and Maintenance.

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are

installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges.

Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to Mitigate.

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to Halt or Reduce Activity not a Defense.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts II U 2 and U 3.

2. Notice

   a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least ten days before the date of the bypass.

   b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.

3. Prohibition of bypass.

   a. Bypass is prohibited, and the Board may take enforcement action against a permittee for bypass, unless:

      (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

      (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

      (3) The permittee submitted notices as required under Part II U 2.

b. The Board may approve an anticipated bypass, after considering its adverse effects, if the Board determines that it will meet the three conditions listed above in Part II U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a. An upset occurred and that the permittee can identify the cause(s) of the upset;

   b. The permitted facility was at the time being properly operated;

   c. The permittee submitted notice of the upset as required in Part II I; and

   d. The permittee complied with any remedial measures required under Part II S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and Entry.

The permittee shall allow the Director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit Actions.

Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the Department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:

   a. The current permittee notifies the Department at least 30 days in advance of the proposed transfer of the title to the facility or property;

   b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

   c. The Board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

Z. Severability.

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.